

FIRST REGULAR SESSION

SENATE BILL NO. 519

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SHOEMYER.

Read 1st time February 19, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

1593L.02I

AN ACT

To repeal sections 393.715, 393.720, and 393.740, RSMo, and to enact in lieu thereof three new sections relating to joint municipal utility projects.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 393.715, 393.720, and 393.740, RSMo, are repealed

2 and three new sections enacted in lieu thereof, to be known as sections 393.715,
3 393.720, and 393.740, to read as follows:

393.715. 1. The general powers of a commission to the extent provided in
2 section 393.710 to be exercised for the benefit of its contracting members shall
3 include the power to:

4 (1) Plan, develop, acquire, construct, reconstruct, operate, manage, dispose
5 of, participate in, maintain, repair, extend or improve one or more projects, either
6 exclusively or jointly or by participation with electric cooperative associations,
7 municipally owned or public utilities or acquire any interest in or any rights to
8 capacity of a project, within or outside the state, and act as an agent, or designate
9 one or more other persons participating in a project to act as its agent, in
10 connection with the planning, acquisition, construction, operation, maintenance,
11 repair, extension or improvement of such project;

12 (2) Acquire, sell, distribute and process fuels necessary to the production
13 of electric power and energy; provided, however, the commission shall not have
14 the power or authority to erect, own, use or maintain a transmission line which
15 is parallel or generally parallel to another transmission line in place within a
16 distance of two miles, which serves the same general area sought to be served by
17 the commission unless the public service commission finds that it is not feasible
18 to utilize the transmission line which is in place;

19 (3) Acquire by purchase or lease, construct, install, and operate reservoirs,

20 pipelines, wells, check dams, pumping stations, water purification plants, and
21 other facilities for the production, wholesale distribution, and utilization of water
22 and to own and hold such real and personal property as may be necessary to
23 carry out the purposes of its organization; provided, however, that a commission
24 shall not sell or distribute water, at retail or wholesale, within the certificated
25 area of a water corporation which is subject to the jurisdiction of the public
26 service commission unless the sale or distribution of water is within the
27 boundaries of a public water supply district or municipality which is a contracting
28 municipality in the commission and the commission has obtained the approval of
29 the public service commission prior to commencing such said sale or distribution
30 of water;

31 (4) Acquire by purchase or lease, construct, install, and operate lagoons,
32 pipelines, wells, pumping stations, sewage treatment plants and other facilities
33 for the treatment and transportation of sewage and to own and hold such real and
34 personal property as may be necessary to carry out the purposes of its
35 organization;

36 (5) Enter into operating, franchises, exchange, interchange, pooling,
37 wheeling, transmission and other similar agreements with any person;

38 (6) Make and execute contracts and other instruments necessary or
39 convenient to the exercise of the powers of the commission;

40 (7) Employ agents and employees;

41 (8) Contract with any person, within or outside the state, for the
42 construction of any project or for any interest therein or any right to capacity
43 thereof, without advertising for bids, preparing final plans and specifications in
44 advance of construction, or securing performance and payment of bonds, except
45 to the extent and on such terms as its board of directors or executive committee
46 shall determine. Any contract entered into pursuant to this subdivision shall
47 contain a provision that the requirements of sections 290.210 to 290.340, RSMo,
48 shall apply;

49 (9) Purchase, sell, exchange, transmit, treat, dispose or distribute water,
50 sewage, gas, heat or electric power and energy, or any by-product resulting
51 therefrom, within and outside the state, in such amounts as it shall determine to
52 be necessary and appropriate to make the most effective use of its powers and to
53 meet its responsibilities, and to enter into agreements with any person with
54 respect to such purchase, sale, exchange, treatment, disposal or transmission, on
55 such terms and for such period of time as its board of directors or executive

56 committee shall determine. A commission may not sell or distribute water, gas,
57 heat or power and energy, or sell sewage service at retail to ultimate customers
58 outside the boundary limits of its contracting municipalities except pursuant to
59 subsection 2 or 3 of this section;

60 (10) Acquire, own, hold, use, lease, as lessor or lessee, sell or otherwise
61 dispose of, mortgage, pledge, or grant a security interest in any real or personal
62 property, commodity or service or interest therein;

63 (11) Exercise the powers of eminent domain for public use as provided in
64 chapter 523, RSMo, except that the power of eminent domain shall not be
65 exercised against any electric cooperative association, municipally owned or
66 public utility;

67 (12) Incur debts, liabilities or obligations including the issuance of bonds
68 pursuant to the authority granted in section 27 of article VI of the Missouri
69 Constitution;

70 (13) Sue and be sued in its own name;

71 (14) Have and use a corporate seal;

72 (15) Fix, maintain and revise fees, rates, rents and charges for functions,
73 services, facilities or commodities provided by the commission. **The powers**
74 **enumerated in this subdivision shall constitute the power to tax for**
75 **purposes of article 10, section 15 of the Missouri Constitution;**

76 (16) Make, and from time to time, amend and repeal, bylaws, rules and
77 regulations not inconsistent with this section to carry into effect the powers and
78 purposes of the commission;

79 (17) Notwithstanding the provisions of any other law, invest any funds
80 held in reserve or sinking funds, or any funds not required for immediate
81 disbursement, including the proceeds from the sale of any bonds, in such
82 obligations, securities and other investments as the commission deems proper;

83 (18) Join organizations, membership in which is deemed by the board of
84 directors or its executive committee to be beneficial to accomplishment of the
85 commission's purposes;

86 (19) Exercise any other powers which are deemed necessary and
87 convenient by the commission to effectuate the purposes of the commission; and

88 (20) Do and perform any acts and things authorized by this section under,
89 through or by means of an agent or by contracts with any person.

90 2. When a municipality purchases a privately owned water utility and a
91 commission is created pursuant to sections 393.700 to 393.770, the commission

92 may continue to serve those locations previously receiving water from the private
93 utility even though the location receives such service outside the geographical
94 area of the municipalities forming the commission. New water service may be
95 provided in such areas if the site to receive such service is located within
96 one-fourth of a mile from a site serviced by the privately owned water utility.

97 3. When a commission created by any of the contracting entities listed in
98 subdivision (4) of section 393.705 becomes a successor to any nonprofit water
99 corporation, nonprofit sewer corporation or other nonprofit agency or entity
100 organized to provide water or sewer service, the commission may continue to
101 serve, as well as provide new service to, those locations and areas previously
102 receiving water or sewer service from such nonprofit entity, regardless of whether
103 or not such location receives such service outside the geographical service area
104 of the contracting entities forming such commission; provided that such locations
105 and areas previously receiving water and sewer service from such nonprofit entity
106 are not located within:

107 (1) Any county of the first classification with a population of more than
108 six hundred thousand and less than nine hundred thousand;

109 (2) The boundaries of any sewer district established pursuant to article
110 VI, section 30(a) of the Missouri Constitution; or

111 (3) The certificated area of a water or sewer corporation that is subject to
112 the jurisdiction of the public service commission.

393.720. Any commission established by joint contract under sections
2 393.700 to 393.770 shall constitute a body public and corporate of the state,
3 exercising public powers for the benefit of its contracting members and in order
4 to carry out the public purposes and the public functions of its contracting
5 members. It shall have the duties, privileges, immunities, rights, liabilities and
6 disabilities of its contracting members and as a public body politic and corporate,
7 **including the power to tax**, but shall not have **any additional** taxing power
8 separate from that of its members nor shall it have the benefit of the doctrine of
9 sovereign immunity.

393.740. 1. All bonds issued pursuant to sections 393.700 to 393.770 and
2 all income or interest thereon shall be exempt from all state taxes, except estate
3 and transfer taxes.

4 2. All property, real and tangible personal, except for properties acquired
5 exclusively for water supply districts **and water supply commissions**, acquired
6 by the bonds issued pursuant to sections 393.700 and 393.770 or otherwise

7 acquired by a commission shall be subject to taxation for state, county, and
8 municipal and other local purposes only to the same extent as if such property
9 was owned directly by each contracting or participating municipality in such
10 proportion or manner as specified by contract among all contracting or
11 participating municipalities party to a project or if not specified in proportion to
12 the percentage of each municipality's interest or participation in the facility or
13 property.

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